

In the Matter of)
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IP-Enabled Services) WC Docket No. 04-36
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Skype, Inc. (“Skype”) hereby replies to the comments filed in response to the Commission’s Notice of Proposed Rulemaking in the above-captioned proceeding.¹ In its initial comments, Skype explained that the Commission should clarify that all IP-enabled services are information services; establish exclusive federal jurisdiction for all IP-enabled services; allow IP-enabled services to devise market-based solutions to social policy issues; and decline to extend the carrier compensation or universal services regimes to Internet applications. Numerous commenters have echoed Skype’s positions. The Commission should adopt regulations that incorporate and advance these principles.

A wide range of commenters support Skype's view that IP-enabled services are information services. Cablevision, for example, explains that "there is no reason to modify the current classification of IP-enabled services as

¹ *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863 (2004).

information services or to rely on new means of distinguishing or classifying IP-enabled services.”² Net2Phone demonstrates the benefits of such an approach, observing that “the Commission’s hands-off approach” has enabled “Internet technologies [to] develop[] into a new breed of services.”³ For this reason, Net2Phone persuasively argues, “[c]lassifying IP-enabled services as ‘telecommunications services’ is not in the public interest” as such a classification “would restrict IP-enabled services to the confines of that definition and curtail any incentive for future growth, evolution, or expansion of those services.”⁴ Finally, Qwest explains that the integrated nature of IP-enabled services would render any attempt to isolate applications for classification purposes “futil[e].”⁵

II. The Commission Should Exercise Exclusive Federal Jurisdiction over IP-Enabled Services.

Numerous commenters with diverse interests agree that the Commission should rule that IP-enabled services fall within its exclusive jurisdiction.⁶ Comptel/Ascent cogently explains that any other approach carries the “very real danger that piecemeal and varied regulation by the states of IP-enabled applications would undermine the national policies promoting the growth of the Internet and advanced information services.”⁷ 8x8 articulates the need for quick

²See Comments of Cablevision Systems Corp. at 7; *see also* Comments of Qwest Communications International Inc. at 14-24; Comments of Vonage at 23-36.

³ See Comments of Net2Phone, Inc. at 4.

⁴ *Id.* at 7.

⁵ Qwest at 24.

⁶ See, e.g., Comments of BellSouth at 11; Cablevision at 11-13; Comments of Dialpad at 8-9; Comments of FERUP at 7-9; Comments of MCI at 22-24; Comments of Microsoft at 14-17; Qwest at 25-36; Comments of USTA at 34-36; Comments of Verizon at 31-42.

⁷ Comments of Comptel/Ascent at 5.

action, noting that “[w]ithout swift and decisive action by the FCC, the window of opportunity will close and there will be no clear path to the development of an effective national policy permitting the continued growth and development of this crucial business sector.”⁸

III. Service Providers Should Have an Opportunity to Address Social Concerns.

There is also considerable support for allowing VoIP providers to address important social goals such as E911 and disability access as their services evolve.⁹ Dialpad notes that “the competitive VoIP market is already beginning to solve [E911]” and “should be afforded the time and flexibility to address this issue internally.”¹⁰ 8x8 correctly observes that IP-enabled services, if allowed to develop, could exceed current standards for public safety and disability access,¹¹ a point that the ITAA echoes: “voluntary efforts could lead to . . . innovative solutions – some of which could meet the Commission’s social objectives in ways that are not even possible with legacy communications systems.”¹²

IV. Carrier Compensation and Universal Service Fees Should not be Assessed Directly on Internet Applications.

Finally, a number of commenters in addition to Skype recognize that universal service and carrier compensation obligations should continue to rest on underlying providers of transmission and not on providers of applications that

⁸ Comments of 8x8 at 10-11.

⁹ See, e.g., Comptel/Ascent at 18-19.

¹⁰ See Dialpad at 21.

¹¹ See 8x8 at 21-23.

¹² Comments of Information Technology Association of America, (“ITAA”) at 30; see also Comments of Microsoft at 19-20.

ride on the Internet.¹³ As MCI explains, “unregulated providers, such as information service providers that merely make use of underlying network facilities, should not be required to pay intercarrier compensation.”¹⁴ Likewise, “no [universal service] contributions should be sought from providers who are not telecommunications carriers.”¹⁵ Microsoft also agrees that universal service obligations should “focus on . . . transmission.”¹⁶ Even with such a focus, many providers of IP-enabled services will pay intercarrier compensation and universal services charges, albeit indirectly, and “there is no compelling reason” as 8x8 makes clear, “to impose duplicative charges.”¹⁷

V. Conclusion

For the foregoing reasons, as well as those contained in Skype’s initial comments, the Commission should foster the continued development of IP-enabled services by clarifying that they are information services subject to

¹³ ITAA at 12-16.

¹⁴ MCI at 48.

¹⁵ *Id.* at 49.

¹⁶ Microsoft at 20.

¹⁷ 8x8 at 23; *see also* Vonage at 47-51. Because underlying providers of transmission to pay intercarrier compensation and contribute to universal service, NECA’s concern that VoIP providers may avoid these charges entirely is misplaced. *See* Comments of National Exchange Carrier Association at 6.

exclusive federal jurisdiction and refraining from extending unnecessary regulatory mandates to these developing services.

Respectfully submitted,

SKYPE, INC.

A handwritten signature in black ink, reading "Henry Goldberg". The signature is written in a cursive style with a horizontal line underneath it.

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July 14, 2004